

Sixth Appellate District

San Jose, California

MONDAY, AUGUST 25, 2008

H031192 PEOPLE v. MARTINEZ

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed August 25, 2008

H031757 PEOPLE v. FRANCO

The judgment is affirmed. (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed August 25, 2008

H031419 PEOPLE v. SALINAS, et al.

By the Court:

On the court's own motion, the submission order in the above-entitled matter dated July 17, 2008, is hereby vacated. The court by separate letter issued August 21, 2008, has requested supplemental briefing from the parties. The cause will be resubmitted upon completion of supplemental briefing.
Dated: August 25, 2008 Bamattre-Manoukian, Acting P.J.

H031380 PEOPLE v. FOUSEK

The judgment is affirmed. (not published)
(Bamattre-Manoukian, Acting P.J.; I concur: Mihara, J.;
Concurring opinion by McAdams, J.)
Filed August 25, 2008

TUESDAY, AUGUST 26, 2008

H032120 DEPT. OF FAIR EMPLOYMENT & HOUSING v. ESQUIVEL, et al.; AREVALO, et al.

The order is affirmed. (not published)
(Premo, J.; We concur: Rushing, P.J., Elia, J.)
Filed August 26, 2008

H031022 PEOPLE v. OLVERA

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 26, 2008

The following case is submitted this date:

H031986 Lambert G. Chambers v. J. Dane, et al.

H031329 MARRIAGE OF VERED MARASH AND ZACHARY WHITMAN

(Filed modification of opinion with no change in the judgment.) The petition for rehearing is denied. (not published)
(Duffy, J. and Mihara, Acting P.J.)
Filed August 26, 2008

Sixth Appellate District

San Jose, California

Tuesday, August 26, 2008 (continued)

H031450 MARRIAGE OF LARRY PETERSON AND JEANETTE WEISS

The order granting Jeanette's motion for attorney fees is affirmed. The order granting Jeanette's ex parte application to vacate the trial is affirmed (not published)
(Duffy, J.; We concur: Mihara, Acting P.J., McAdams, J.)
Filed August 26, 2008

H032366 NEWTON v. LEWIN-LAZZERI, et al.

By the Court:

Appellant's motion to vacate submission and request oral argument is granted. The submission order of August 5, 2008, is hereby vacated. The cause will be resubmitted upon completion of oral argument scheduled at a date and time to be determined.
Dated: August 26, 2008 Mihara, Acting P.J.

WEDNESDAY, AUGUST 27, 2008

H031801 PEOPLE v. BERRING

The judgment is affirmed. (not published)
(Elia, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 27, 2008

H032069 PEOPLE v. LARA

The June 28, 2007 order extending appellant's commitment pursuant to sections 1026 and 1026.5 is affirmed. (not published)
(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., Duffy, J.)
Filed August 27, 2008

H031922 LOUMENA v. LOUMENA

The penultimate paragraph of the trial court's custody order is hereby modified to eliminate all of the words after "Montenegro v. Diaz." Wylmina shall recover her costs on appeal. (not published)
(Mihara, J.; We concur: Bamattre-Manoukian, Acting P.J., Duffy, J.)
Filed August 27, 2008

THURSDAY, AUGUST 28, 2008

H031351 PEOPLE v. MONTEVERDE

The judgment is affirmed. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)
Filed August 28, 2008

Sixth Appellate District

San Jose, California

Thursday, August 28, 2008 (continued)

H030882 PEOPLE v. WILKINS

The conviction on count 3 is reversed due to the insufficiency of the evidence. The judgment is ordered modified by striking the eight-month consecutive term imposed on count 3 and the order to pay \$8.50 in restitution to Bank of America. As so modified the judgment is affirmed. The clerk of the superior court is ordered to prepare an amended abstract of judgment and to forward it to the Department of Corrections and Rehabilitation. (not published)
(Bamattre-Manoukian, Acting P.J.; We concur: Mihara, J., Duffy, J.)

Filed August 28, 2008

H029296 CITY OF HOLLISTER v. MONTEREY INSURANCE COMPANY, et al.

Appellants' and respondent's petitions for rehearing are denied. (Filed modification of opinion with a change in the judgment.) (published)
(Rushing, P.J., Premo, J., Elia, J.)

Filed August 28, 2008

H030161 CITY OF HOLLISTER v. MONTEREY INSURANCE COMPANY, et al.
By the Court*:

Appellants' petition for rehearing is denied.
Filed: August 28, 2008

*Before Rushing, P.J., Premo, J. and Elia, J.

H031936 LEE v. SHAPELL INDUSTRY OF NORTHERN CALIFORNIA

The motion to dismiss the appeal is granted. The appeal is hereby dismissed as untimely. Sanctions in the amount of \$1,000 are awarded to respondent. (not published)
(Rushing, P.J.; We concur: Premo, J., Elia, J.)

Filed August 28, 2008

Sixth Appellate District

San Jose, California

Thursday, August 28, 2008 (continued)

H032462 ANDERSON v. KELLOGG

The November 26, 2007 order is reversed and the trial court is directed on remand to hold a hearing limited to the issue of whether appellant Victoria Kellogg can make the showing required for issuance of a writ of execution to enforce the March 27, 2006 order, including a showing of the total amount of money awarded under the March 27, 2006 order. (§ 699.520.) The parties may submit additional evidence and argument at this hearing. If Kellogg makes the required showing, then the trial court shall direct the clerk of the court to issue a writ of execution to enforce the March 27, 2006 order.

Costs are awarded to appellant Victoria Kellogg. (not published)

(Bamattre-Manoukian, J.; We concur: Elia, Acting P.J., Duffy, J.)
Filed August 28, 2008

H032221 PEOPLE v. GILBERT

The judgment is ordered modified by reducing the restitution (§ 1202.4, subd. (b)) from \$2,800 to \$1,400, and the parole revocation restitution fine (§ 1202.45) from \$2,800 to \$1,400. The abstract of judgment is amended to include the court security fee of \$20. As so modified, the judgment is affirmed. The clerk of the superior court shall modify the abstract of judgment as ordered herein and forward a copy of the modified abstract of judgment to the Department of Corrections and Rehabilitation. (not published)

(Bamattre-Manoukian, J.; We concur: Premo, Acting P.J., Elia, J.)
Filed August 28, 2008

H031776 CARLA M. v. SUSAN E. et al.

The trial court's June 21, 2007 order denying defendants' special motion to strike the first amended complaint and petition is affirmed. (not published)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed August 28, 2008

H032030 PEOPLE v. YBARRA

The judgment is affirmed. (not published)

(Mihara, Acting P.J.; We concur: McAdams, J., Duffy, J.)
Filed August 28, 2008

H032534 PEOPLE v. SALAZAR

The judgment is affirmed. (not published)

(Mihara, J.; We concur: Rushing, P.J., McAdams, J.)
Filed August 28, 2008

Sixth Appellate District

San Jose, California

FRIDAY, AUGUST 29, 2008

H031986 CHAMBERS v. DANE, et al.

The appeal is dismissed. (not published)
(Bamattre-Manoukian, J.; We concur: Rushing, P.J., Premo, J.)
Filed August 29, 2008

H032723 In re TIMOTHY H., et al.; DFCS v. THEA H.

The order appealed from is affirmed. (not published)
(Elia, Acting P.J.; We concur: Bamattre-Manoukian, J., Duffy, J.)
Filed August 29, 2008